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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,573	02/27/2002	Minoru Ogasawara	Q68709	1530
23373	7590	09/28/2005	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			SIEFKE, SAMUEL P	
			ART UNIT	PAPER NUMBER
			1743	

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/069,573

**Applicant(s)**

OGASAWARA ET AL.

**Examiner**

Samuel P. Siefke

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7/25/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3-5 and 9-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically a heat resistant chromatography carrier is not described. The only mention of heat resistant chromatography is the support and is on the top of page 10 in the specification.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **1, 3-5, and 9-10** are rejected under 35 U.S.C. 103(a) as obvious over JP 62-100649 in view of Brody et al. (USPN 3,489,498).

JP '649 teaches a flame analysis method and apparatus that for quantification of phosphor and sulfur (hetero elements, different) compounds in an elution liquid from a liquid chromatography and element analysis on phosphorus and sulfur handily, whereby a liquid sample on a strip of porous paper material is supplied into a flame of a flame photometer. An analyzer (1) is provided with a burner (2), a photoelectric multiplier (3; light guide) and a combustion chamber (9) having an exhaust port 4 and a roller carrier means to feed a strip filter paper (5) attached to a flame set in the combustion chamber (9) with a burner along the length thereof. This carrier means is composed of a guide (6), a roller and a roller-driving motor (71). A strip of porous paper material holding a liquid sample is introduced continuously into the flame, where the porous paper material is burnt away. Components to be inspected in the liquid sample are vaporized and burnt, emitting light. The intensity of the emission spectrum is detected with a light receiver.

JP '649 does not teach a dual analyzer that comprises a hydrogen flame photometric analyzer, a hydrogen flame ionization detector or a thin-layer chromatography element comprising a heat resistant support and a hear resistant carrier.

Brody teaches a dual detector as shown in fig. 3 and a method of using the detector that comprises a flamed photometric analyzer (29 and 28) and a hydrogen flame ionization detector (62) that are directly connected to recorders for recording results from the reaction (col. 5, lines 23-col. 6, line 43). Brody teaches that up to three analyses can be conducted concurrently from a single burner flame fed from a suitable sample source (col. 3, lines 3-5). Therefore it would have been obvious to modify JP '649 to have dual detection as in Brody in order to simultaneously run multiple tests on a sample to reduce testing time and reduce the amount of sample needed to perform analysis. Brody also teaches a plurality of spectroscopic means (detection) having different transmission wavelengths, each with its own analyzing and recording units (col. 5, lines 29-45; col. 6, lines 32-43). A mirror (prism) is seen in figure 2 ref. 37. It would have been obvious to one of ordinary skill to modify JP '649 to employ a plurality of spectroscopic detection each having different wavelengths because it would provide the most information on the sample by taking measurements at different wavelengths.

JP '649 as modified by Brody does not teach a mechanical shutter between the spectroscopic means and the light means. It would have been obvious to one having an ordinary skill in the art to modify the modified JP '649 to provide a mechanical shutter

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between the spectroscopic means and the light analysis means in order to keep the light analyzing means shielded when a detection of a sample is not taking place.

Regarding the heat resistant support and carrier, it would have been obvious to one having an ordinary skill in the art to modify the modified JP '649 to employ a heat resistant support and carrier because it would eliminate any side reactions a porous paper material might produce when being burned away which would change the emitting light intensity that the detector detects resulting in improper results.

### ***Response to Arguments***

Applicant's arguments with respect to claims **1, 3-5** and **9-10** have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

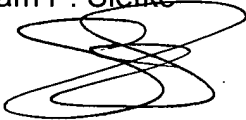
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel P. Siefke whose telephone number is 571-272-1262. The examiner can normally be reached on M-F 7:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sam P. Siefke



September 20, 2005

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 17